

AMENDED IN SENATE APRIL 21, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 250

Introduced by Senator Florez

February 24, 2009

An act to add ~~Section 30804.6~~ *Sections 30804.6 and 31751.4* to the Food and Agricultural Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

SB 250, as amended, Florez. Dogs and cats: spaying and neutering.

Existing law generally prohibits public pounds and private shelters from selling or giving away any dog or cat that has not been spayed or neutered; provides, under certain circumstances, for the sale or giving away of a dog or cat that has not been spayed or neutered upon the payment of a refundable deposit, as specified; provides for the imposition of fines or civil penalties against the owner of a nonspayed or unneutered dog or cat that is impounded by a public pound or private shelter; and immunizes cities and counties, societies for the prevention of cruelty to animals, and humane societies from an action by the owner of a dog or cat for spaying or neutering the dog or cat in accordance with the law. A violation of any of these provisions is an infraction, punishable as specified.

This bill would provide, in addition, that every dog owner shall secure a license for the dog, as required by state or local law, and that no person shall own, keep, or harbor an unaltered and unspayed dog, except as specified. It would make it unlawful for any person who owns, keeps, or harbors any unspayed or unaltered cat 6 months of age or older to allow or permit that unspayed or unaltered cat to remain outdoors. It would require any owner or custodian, as defined, of an unaltered dog

~~or~~ eat to have the animal spayed or neutered at 6 months of age or older, or provide a certificate of sterility. *It would require an owner or custodian of an unaltered cat to have the cat spayed or neutered or provide a certificate of sterility.* It would allow an unaltered dog license to be denied, revoked, and reapplied for, as specified, and the licensing agency to utilize its existing procedures for any appeal of a denial or revocation of an unaltered dog license.

This bill would require an owner or custodian who offers any unaltered dog or cat for sale, trade, or adoption to meet specified requirements. It would permit an administrative citation, infraction, or other authorized penalty for a violation of certain provisions to be imposed only if the owner or custodian is concurrently cited for another violation under state or local law, as specified. It would require, if an unaltered dog or cat is impounded pursuant to state or local law, the owner or custodian to meet specified requirements, including paying the costs of impoundment. It would require all costs, fines, and fees collected under the bill to be paid to the licensing agency for the purpose of defraying the cost of the implementation and enforcement of the bill. By creating new crimes and imposing new duties on local animal control agencies, this bill would impose a state-mandated local program upon local governments.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30804.6 is added to the Food and
- 2 Agricultural Code, to read:
- 3 30804.6. (a) (1) Every dog owner shall secure a license for
- 4 the dog pursuant to Section 121690 of the Health and Safety Code
- 5 or as required by the local licensing agency.

1 (2) No person shall own, keep, or harbor an unaltered and
2 unspayed dog in violation of this section.

3 (3) An owner or custodian of an unaltered dog shall have the
4 dog spayed or neutered at six months of age or older, provide a
5 certificate of sterility, or obtain an unaltered dog license in
6 accordance with this section.

7 (4) This subdivision shall not apply to a dog with a high
8 likelihood, due to age or infirmity, of suffering serious bodily harm
9 or death if spayed or neutered. The owner or custodian shall obtain
10 written confirmation of this fact from a veterinarian licensed in
11 this state. If the dog is able to be spayed or neutered at a later date,
12 that date shall be stated in the written confirmation. If the date for
13 spaying or neutering is more than 30 days, the owner or custodian
14 shall apply for an unaltered dog license.

15 ~~(b) (1) It is unlawful for any person who owns, keeps, or harbors~~
16 ~~any unspayed or unaltered cat six months of age or older to allow~~
17 ~~or permit that unspayed or unaltered cat to remain outdoors.~~

18 ~~(2) An owner or custodian of an unaltered cat shall have the~~
19 ~~animal spayed or neutered, or provide a certificate of sterility.~~

20 ~~(3) This subdivision shall not apply to a cat with a high~~
21 ~~likelihood, due to age or infirmity, of suffering serious bodily harm~~
22 ~~or death if spayed or neutered. The owner or custodian shall obtain~~
23 ~~written confirmation of this fact from a veterinarian licensed in~~
24 ~~this state. If the cat is able to be spayed or neutered at a later date,~~
25 ~~that date shall be stated in the written confirmation.~~

26 (e)

27 (b) An unaltered dog license may be denied or revoked for one
28 or more of the following reasons:

29 (1) The owner, custodian, applicant or licensee is not in
30 compliance with all of the requirements of this section.

31 (2) The licensing agency has issued one citation verified by the
32 agency pursuant to existing policies and procedures that the owner,
33 custodian, applicant, or licensee has allowed a dog to be stray or
34 run at large or has otherwise been found to be neglectful of his or
35 her or other animals.

36 (3) The owner, custodian, applicant, or licensee has been
37 previously cited for violating a state law, or a city, county, or other
38 local governmental provision relating to the care and control of
39 animals.

(4) The unaltered dog has been adjudicated by a court or an agency of appropriate jurisdiction to be potentially dangerous, dangerous, or vicious, or to be a nuisance within the meaning of the state or local law.

(5) Any unaltered dog license held by the applicant has been revoked.

(6) The license application is discovered to contain a material misrepresentation or omission of fact.

~~(d)~~

(c) The licensing agency shall utilize its existing procedures for any appeal of a denial or revocation of an unaltered dog license, which appeal procedure may include written notice of the denial or revocation and a reasonable opportunity for the owner or custodian to respond.

~~(e)~~

(d) An owner or custodian who offers any unaltered dog for sale, trade, or adoption ~~at the age of four months~~ *four months of age or older* or the age required by the licensing agency shall be required to include a valid unaltered dog license number with the offer of sale, trade, or adoption, or shall otherwise state and establish compliance with this section. The unaltered dog's license number, and any existing microchip number for the dog, shall appear on the document transferring ownership of the dog to the new owner.

~~(f) An owner or custodian who offers any unaltered cat for sale, trade, or adoption shall notify the licensing agency, if the jurisdiction requires the licensing of cats, of the name and address of the transferee within 10 days after the transfer. Any existing microchip number for the cat shall appear on a document transferring ownership of the cat to the new owner.~~

~~(g)~~

(e) (1) An administrative citation, infraction, or other authorized penalty may be imposed upon an owner or custodian of an unaltered dog ~~or cat~~ for a violation of this section only if the owner or custodian is concurrently cited for another violation under state or local law pertaining to the obligations of a person owning or possessing a dog or cat, including, but not limited to, the following:

(A) ~~Failure to possess a current canine rabies vaccination of the subject dog.~~

(B) ~~Permitting the subject dog or cat to roam at large.~~

1 ~~(C) Failure to license the subject dog.~~

2 ~~(D) Leash law violations.~~

3 ~~(E) Kennel or cattery permit violations.~~

4 ~~(F) Tethering violations.~~

5 ~~(G) Maintaining a dog or cat in unhealthy or unsanitary~~
6 ~~conditions.~~

7 ~~(H) Failure to provide adequate care for the subject dog or cat~~
8 ~~in violation of cruelty to animal provisions.~~

9 ~~(I) Rabies quarantine violations for the subject dog.~~

10 ~~(J) Operating a business involving the subject dog or cat without~~
11 ~~a license or state tax ID number.~~

12 ~~(K) Fighting dog activity in violation of Section 597.5 of the~~
13 ~~Penal Code.~~

14 ~~(L) Unlawfully leaving animals unattended in a motor vehicle~~
15 ~~in violation of Section 597.7 of the Penal Code.~~

16 ~~(M) Failure to comply with local jurisdiction requirements for~~
17 ~~the keeping of a dog that has been adjudicated by a court or an~~
18 ~~agency of appropriate jurisdiction to be potentially dangerous,~~
19 ~~dangerous, or vicious. possessing a dog, for one or more of the~~
20 ~~following:~~

21 ~~(A) Permitting the subject dog to roam at large.~~

22 ~~(B) Failure to provide adequate care for the subject dog in~~
23 ~~violation of animal cruelty provisions.~~

24 ~~(C) Rabies quarantine violations for the subject dog.~~

25 ~~(D) Fighting dog activity in violation of Section 597.5 of the~~
26 ~~Penal Code.~~

27 ~~(E) Failure to comply with the local jurisdiction's requirements~~
28 ~~for the keeping of a dog that has been adjudicated by a court or~~
29 ~~an agency of appropriate jurisdiction to be potentially dangerous,~~
30 ~~dangerous, or vicious.~~

31 (2) Any owner or custodian of an unaltered dog or cat who is
32 found to be subject to a penalty under paragraph (1) shall be
33 required to spay or neuter the unaltered animal in accordance with
34 this section. The licensing agency shall utilize its existing
35 procedures for any appeal of this requirement.

36 (3) At the time a citation is issued pursuant to paragraph (1) or
37 (2), the licensing agency may provide the owner or custodian
38 information as to the availability of spaying and neutering services
39 for free or at a reduced cost.

40 ~~(h)~~

(f) If an unlicensed unaltered dog ~~or cat~~ is impounded pursuant to state or local law, in addition to satisfying applicable requirements for the release of the animal, including, but not limited to, payment of impound fees pursuant to this section, the owner or custodian shall also do one of the following:

(1) Provide written proof of the dog's ~~or cat's~~ prior sterilization, if conditions cannot or do not make this assessment obvious to the licensing agency personnel.

(2) Have the dog ~~or cat~~ spayed or neutered by a veterinarian associated with the licensing agency at the expense of the owner or custodian. That expense may include additional fees due to any extraordinary care required.

(3) Arrange to have the dog ~~or cat~~ spayed or neutered by another veterinarian licensed in this state.

(4) At the discretion of the licensing agency, the dog ~~or cat~~ may be released to the owner or custodian if he or she pays a refundable deposit consistent with existing practices and procedures, or signs a statement under penalty of perjury representing that the dog ~~or cat~~ will be spayed or neutered and that he or she will submit a statement ~~within~~ *by the deadline set by the licensing agency, but in no case less than 10 days of* after the release, signed by the veterinarian, confirming that the dog ~~or cat~~ has been spayed or neutered or is incapable of breeding, or confirming that the veterinarian has scheduled the spaying or neutering operation within a reasonable time.

(5) Demonstrate that he or she is in compliance with this section.

(i)

(g) (1) The owner or custodian of the unaltered dog ~~or cat~~ shall be responsible for the established costs of impoundment, which shall include daily board costs, vaccination, medication, and any other diagnostic or therapeutic applications as required by this section.

(2) The costs of impoundment shall be a lien on the dog ~~or cat~~, and the unaltered animal shall not be returned to its owner or custodian until the costs are paid or payment arrangements have been made.

(3) If the owner or custodian of an impounded unaltered animal does not pay the lien against it in full or make payment arrangements within a reasonable time consistent with the licensing

agency's existing holding policies, the animal shall be deemed abandoned to the licensing agency in accordance with this section.

(j)

(h) All costs and fines collected under this section and the fees collected under subdivision-(i) (g) shall be paid to the licensing agency for the purpose of defraying the cost of the implementation and enforcement of this section.

(k)

(i) Nothing in this section shall prohibit a local jurisdiction from enforcing or enacting local measures that require the spaying or neutering of all dogs and cats, and *this section* shall not prohibit a local jurisdiction from enacting or enforcing other local measures pertaining to the obligations of a person owning or possessing a dog or cat. *dog.*

(l)

(j) For the purposes of this section, the following terms have the following meanings:

(1) "Licensing agency" means the municipal city or county animal control agency or other entity responsible for enforcing laws relating to animals.

(2) "Custodian" means any person who undertakes the personal care and control of a dog or cat, or any person who intentionally provides care, security, or sustenance for a dog or cat on the person's property for any period exceeding 30 days. "Custodian" does not include a licensing agency.

SEC. 2. Section 31751.4 is added to the Food and Agricultural Code, to read:

31751.4. (a) (1) It is unlawful for any person who owns, keeps, or harbors any unspayed or unaltered cat six months of age or older to allow or permit that unspayed or unaltered cat to remain outdoors.

(2) An owner or custodian of an unaltered cat shall have the animal spayed or neutered, or provide a certificate of sterility.

(3) This subdivision shall not apply to a cat with a high likelihood, due to age or infirmity, of suffering serious bodily harm or death if spayed or neutered. The owner or custodian shall obtain written confirmation of this fact from a veterinarian licensed in this state. If the cat is able to be spayed or neutered at a later date, that date shall be stated in the written confirmation.

1 (b) An owner or custodian who offers any unaltered cat for sale,
2 trade, or adoption shall notify the licensing agency, if the
3 jurisdiction requires the licensing of cats, of the name and address
4 of the transferee within 10 days after the transfer. Any existing
5 microchip number for the cat shall appear on a document
6 transferring ownership of the cat to the new owner.

7 (c) (1) An administrative citation, infraction, or other
8 authorized penalty may be imposed upon an owner or custodian
9 of an unaltered cat for a violation of this section only if the owner
10 or custodian is concurrently cited for another violation under state
11 or local law pertaining to the obligations of a person owning or
12 possessing a cat, for either or both of the following:

13 (A) Permitting the subject cat to roam at large.

14 (B) Failure to provide adequate care for the subject cat in
15 violation of animal cruelty provisions.

16 (2) Any owner or custodian of an unaltered cat who is found to
17 be subject to a penalty under paragraph (1) shall be required to
18 spay or neuter the unaltered animal in accordance with this
19 section. The licensing agency shall utilize its existing procedures
20 for any appeal of this requirement.

21 (3) At the time at which a citation is issued pursuant to
22 paragraph (1) or (2), the licensing agency may provide to the
23 owner or custodian information as to the availability of spaying
24 and neutering services for free or at a reduced cost.

25 (d) If an unlicensed, unaltered cat is impounded pursuant to
26 state or local law, in addition to satisfying applicable requirements
27 for the release of the animal, including, but not limited to, payment
28 of impound fees pursuant to this section, the owner or custodian
29 shall also do one of the following:

30 (1) Provide written proof of the cat's prior sterilization, if
31 conditions cannot or do not make this assessment obvious to the
32 licensing agency personnel.

33 (2) Have the cat spayed or neutered by a veterinarian associated
34 with the licensing agency at the expense of the owner or custodian.
35 That expense may include additional fees due to any extraordinary
36 care required.

37 (3) Arrange to have the cat spayed or neutered by another
38 veterinarian licensed in this state.

39 (4) At the discretion of the licensing agency, the cat may be
40 released to the owner or custodian if he or she pays a refundable

1 *deposit consistent with existing practices and procedures, or signs*
2 *a statement under penalty of perjury representing that the cat will*
3 *be spayed or neutered and that he or she will submit a statement*
4 *by the deadline set by the licensing agency, but in no case less*
5 *than 10 days after the release, signed by the veterinarian,*
6 *confirming that the cat has been spayed or neutered or is incapable*
7 *of breeding, or confirming that the veterinarian has scheduled the*
8 *spaying or neutering operation within a reasonable time.*

9 *(5) Demonstrate that he or she is in compliance with this section.*

10 *(e) (1) The owner or custodian of the unaltered cat shall be*
11 *responsible for the established costs of impoundment, which shall*
12 *include daily board costs, vaccination, medication, and any other*
13 *diagnostic or therapeutic applications as required by this section.*

14 *(2) The costs of impoundment shall be a lien on the cat, and the*
15 *unaltered animal shall not be returned to its owner or custodian*
16 *until the costs are paid or payment arrangements have been made.*

17 *(3) If the owner or custodian of an impounded unaltered animal*
18 *does not pay the lien against it in full or make payment*
19 *arrangements within a reasonable time consistent with the licensing*
20 *agency's existing holding policies, the animal shall be deemed*
21 *abandoned to the licensing agency in accordance with this section.*

22 *(f) All costs and fines collected under this section and the fees*
23 *collected under subdivision (e) shall be paid to the licensing agency*
24 *for the purpose of defraying the cost of the implementation and*
25 *enforcement of this section.*

26 *(g) Nothing in this section shall prohibit a local jurisdiction from*
27 *enforcing or enacting local measures that require the spaying or*
28 *neutering of all cats, and this section shall not prohibit a local*
29 *jurisdiction from enacting or enforcing other local measures*
30 *pertaining to the obligations of a person owning or possessing a*
31 *cat.*

32 *(h) For the purposes of this section, the following terms have*
33 *the following meanings:*

34 *(1) "Custodian" means any person who undertakes the personal*
35 *care and control of a cat, or any person who intentionally provides*
36 *care, security, or sustenance for a cat on the person's property*
37 *for any period exceeding 30 days. "Custodian" does not include*
38 *a licensing agency.*

1 (2) *“Licensing agency” means the municipal city or county*
2 *animal control agency or other entity responsible for enforcing*
3 *laws relating to animals.*

4 ~~SEC. 2.~~

5 SEC. 3. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution for certain
7 costs that may be incurred by a local agency or school district
8 because, in that regard, this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty for a crime
10 or infraction, within the meaning of Section 17556 of the
11 Government Code, or changes the definition of a crime within the
12 meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 However, if the Commission on State Mandates determines that
15 this act contains other costs mandated by the state, reimbursement
16 to local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.